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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/875,546	06/05/2001	Dan Kikinis	ISURFTV135	6897

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EXAMINER

SALCE, JASON P

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 07/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/875,546	Applicant(s) KIKINIS, DAN	
	Examiner Jason P. Salce	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/27/2006 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-24 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Allport (U.S. Patent No. 6,567,984).

Referring to claim 1, Allport teaches a system comprising a video display coupled with a receiving system (see TV 80 coupled to base station/receiving system 75 in Figure 2), the video display to display a video broadcast (see Column 11, Lines 50-51).

Allport also discloses that the system comprises a computing device coupled with the receiving system (see remote control unit 10 in Figure 2), the computing device having a second display (see display 15 in Figure 1) to concurrently display an EPG corresponding to the video broadcast (see Column 8, Lines 9-22) and received from said receiving system and the video broadcast (see Column 7, Lines 60-67 and Column 12, Lines 10-42 for receiving secondary data (program guide data and listings) from either the Internet 95 or the VBI of the television signals 85).

Referring to claim 2, Allport discloses that the video display can display a portion of the EPG concurrently displayed on the second display of the computing device (see Column 6, Lines 50-65 and Column 7, Line 60 through Column 8, Line 5).

Referring to claim 3, Allport discloses that the computing device is interconnected to a network (see remote control unit connected to networks 95 and 85 through base station 75) and receives the EPG via the network connection (see the rejection of claim 1).

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Referring to claim 4, Allport discloses that the computing device is a wireless device (see Column 9, Lines 36-45).

Referring to claim 5, Allport discloses that the computing device is a PDA (see Column 12, Lines 27-42 for the remote control device containing various organization functionality, thereby classifying the remote control device as a PDA). The examiner notes that a PDA by definition is "**A lightweight palmtop computer designed to provide specific functions for personal organization as well as communications**" (see the Microsoft Computer Dictionary, Fourth Edition, Page 336).

Referring to claim 7, Allport discloses that the video display coupled with the receiving system is a television system (see TV 80 in Figure 2).

Referring to claim 8, Allport discloses that the video display coupled with the receiving system is a set top box (see Column 12, Lines 45-49 for the base station (which contains a TV tuner to tune to the television channels, and therefore is a set-top box) being integrated into the video display).

Referring to claims 9-13 and 15-16, see the rejection of claims 1-5 and 7-8, respectively.

Referring to claims 17-21 and 23-24, see the rejection of claims 1-5 and 7-8, respectively.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 14 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allport (U.S. Patent No. 6,567,984) in view of Elliott (U.S. Patent No. 6,473,097).

Referring to claim 6, Allport discloses all of the limitations of claim 2, but is silent as the computing device being a web phone.

Elliot teaches (within the same field of endeavor) a cellular phone that receives/transmits data from/to the Internet via radio frequencies (see Column 3, Lines 35-45 and Column 4, Lines 36-46).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to combine the systems of Ellis and Elliot in order to provide a system capable of utilizing a mobile phone having EPG capability as a remote controller, thereby providing the user with extended functionality and control.

Referring to claims 14 and 22, see the rejection of claim 6.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason P Salce
Primary Examiner
Art Unit 2623



June 19, 2006